

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

TIMOTHY BOYKINS,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 4:22-CV-667-SPM
	)	
DAVID VANDERGRIFF,	)	
	)	
Respondent.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court upon review of the file. On or about June 23, 2022, petitioner Timothy Boykins instituted this action by filing a document indicating an intent to seek relief pursuant to 28 U.S.C. § 2254. He did not pay the filing fee or move for leave to proceed without payment of such fee. On August 9, 2022, the Court entered an order directing Petitioner to file a Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus on the proper form, and to either pay the filing fee or file a motion for leave to proceed *in forma pauperis*. In that order, the Court cautioned Petitioner that his failure to timely comply may result in the dismissal of this action, without prejudice and without further notice.

Petitioner did not respond to the Court's order, or seek additional time to do so. On September 30, 2022, the Court on its own motion entered an order giving Petitioner additional time, again cautioning him that dismissal could result from his failure to timely comply. Petitioner's response was due no later than October 29, 2022. To date, Petitioner has not responded to the Court's order or sought additional time to do so.

The situation before the Court is one in which Petitioner has failed to respond to two court orders, and in fact has not appeared in this case at all since instituting it. The Court gave

Petitioner meaningful notice of what was expected and ample time to comply, and twice cautioned him that dismissal could result from his failure to comply. The Court will therefore dismiss this action at this time, without prejudice, due to petitioner's failure to comply with the Court's August 9, 2022 and September 30, 2022 orders, and his failure to prosecute this case. *See* Fed. R. Civ. P. 41(b); *see also Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986) (a district court has the power to dismiss an action for the plaintiff's failure to comply with any court order).

Accordingly,

**IT IS HEREBY ORDERED** that this case is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

A handwritten signature in cursive script that reads "Ronnie L. White". The signature is written in black ink and is positioned above a solid horizontal line.

**RONNIE L. WHITE**  
**UNITED STATES DISTRICT JUDGE**

Dated this 14th day of November, 2022.